GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Skills Development and Training Department - Employment and Training - Public Servants - **SD&T Dept.** - Emp. & Trg. - Smt. Shaik Fathima Bee, W/o Late Shaik Mastan Saheb, former Record Assistant, DEE, Kurnool - Requested to release all Pensionary Terminal Benefits in view of the Hon'ble SCI judgment in Crl. Appeal No.716 of 2006 against the Hon'ble High Court judgment in Crl. Appeal No.1272 and 1335 of 2000 - Orders - Issued.

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SKILLS DEVELOPMENT AND TRAINING (E&T. A1) DEPARTMENT

G.O.Rt.No:45, Date:26-2-2024.

Read the following :-

1. From the DG, ACB letter No.112/RCT-KUR/93,dt.25-7-1994.
2. G.O.Rt.No.1666, LET&F(Emp.A1)Dept., dt.18-7-1995.
3. G.O.Rt.No.1667, LET&F(Emp.A1)Dept., dt.18-7-1995
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6. G.O.Ms.No.58, LET&F(Vig) Dept., dt.8-11-2000.
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11. From Smt. Shaik Fathima Bee, W/o Late Shaik Mastan Saheb, former Record Assistant, DEE, Kurnool, representatio dt.27-10-2014.
12. From Smt. Shaik Fathima Bee, W/o Late Shaik Mastan Saheb, former Record Assistant, DEE, Kurnool, representation dt.2-11-2021.
13. From the Advocate General, APHC, Lr.No.471/2023,dt.9-10-2023.

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ORDER:

Sri K. Subbarayudu, Junior Assistant, Sri S. Mastan Saheb, Record Asst., O/o the District Employment Exchange, Kurnool and a private person Sri P. Yesudas Prabhakar, @ Poojari Johan of Gudur(V) of Kurnool District were trapped by the ACB on 8-10-1993, while accepting a bribe of Rs.900/- from the complainant Sri Chandra Sekhar Reddy, an un-employee of M. Lingapuram(V) of Kurnool District for doing official favour of sponsoring his name for selection to the post of Attender.

2. Sri K. Subbarayudu, Junior Assistant and Sri S. Mastan Saheb, Record Asst., were placed under suspension w.e.f.9-10-1993. Later, as per the Final Report of the ACB 1st read above, vide 2nd and 3rd read above had accorded sanction for prosecution of Sri K.Subbarayudu, Junior Asst. and Sri S. Mastan Saheb, Record Asst. in a Court of Law.

3. The Director General, ACB in the 4th read above, informed that the Ho'ble Court of the Addl. Spl. Judge for SPE & ACB Cases, Hyderabad delivered judgment in CC No. 1 of 1996 on 16-8-2000 finding the accused guilty of the charges. Sri K. Subbarayudu, Junior Asst. and Sri S. Mastan Saheb, Record Asst. were convicted and sentenced to undergo Rigorous Imprisonment for one year and to pay fine of Rs.1,000/- each and in default of payment of fine to suffer simple imprisonment for 3 months for each count. Both the sentences are ordered to run concurrently. Similarly, Sri P. Yesudas Prabhakar Rao @ Poojari (Private person) was also convicted and sentenced to undergo R.I. for one year and to pay a fine of Rs.1,000/- each and in default of payment of fine to suffer S.I. for 3 months. The DG, ACB had recommended to dismiss Sri K. Subbarayudu, Junior Assistant, Sri S. Mastan Saheb, Record Asst., O/o DEE, Kurnool.

4. The Director General, ACB, in the 5th read above, sent a copy of Judgment dt.16.8.2000 of the Hon'ble Court of the Addl. Spl. Judge for SPE & ACB Cases, Hyd. in CC No.1 of 1996 for taking action to dismiss the convicted officials from the service. He had also informed that the convicted officials filed Crl. Appeal No.1272/2000 in the Hon'ble High Court against their conviction in trial court. The Crl. Appeal was admitted on 7-9-2000. The Hon'ble High Court suspended the sentence of imprisonment alone, by an order in Crl.M.P.No.5330/2000 dt.7-9-2000.

P.T.O.

5. Government, vide 6th read above, issued orders dismissing Sri K. Subbarayudu, Senior Assistant, DLTC Kurnool and Sri Sk .Mastan Saheb, Record Assistant, District Employment Exchange, Kurnool from service with immediate effect.

6. Sri K. Subbarayudu (Appellant-1), Junior Assistant, Sri S. Mastan Saheb (Appellant-2), Record Assistant filed Crl. Appeal No.716 of 2006 in the Hon'ble Supreme Court of India against the judgment of the Hon'ble High Court. The Hon'ble Supreme Court of India delivered judgment on **in the Crl. Appeal No.716 of 2006 on 25-1-2011 as follows:**

> "Heard the learned counsel for the parties.
>
> This appeal has been filed against the impugned judgment and order dated 21st October, 2005 passed by the High Court of A.P., at Hyderabad in Criminal Appeal No.1272 of 2000.
>
> In so far as Appellant No.2 is concerned, the appeal abates, since he has passed away".

7. The Director General, ACB in the 8th read above informed that this is not a fit case to appeal for larger bench in the Supreme Court of India.

8. Government, vide 9th and 10th read above, issued orders reinstating Sri K.Subbarayudu (Appellant-1), Senior Assistant into service with immediate effect and treating his suspension and dismissal period as not duty, subject to limiting the Pay and Allowances to the subsistence allowance entitled / already paid, as he was acquitted on benefit of doubt.

9. Smt. Fathima Bee, Wife of Late S. Mastan Saheb (Appellant-2) has submitted representations vide 11th and 12th read above to Government to sanction for sanction of pensionary benefits with regularization of the suspension/dismissal period of her husband.

10. In this back drop of fact it is relevant to understand in the context of Section 394 of CRPC which deals with abatement of appeals, where in Clause (2) says:-

> "Section 394 of the Code of Criminal Procedure reads that every appeal shall finally abate on the death of the appellant. The proviso to that section says that where the appeal is against a conviction and sentence of death or of imprisonment and the appellant dies during the pendency of the appeal, any of his relatives, which expression is defined by the explanation appended to this proviso may within 30 days of the death of the appellant, apply to the appellate court for leave to continue the appeal; and if leave is granted, the appeal shall not abate"

In light of the above provision and the order of the Supreme Court the appeal of Late Shaik Mastan Saheb stands abated and in the present case, none of the relatives of the deceased within the term of the explanation to the proviso has approached the Court within 30 days for leave to continue the appeal.

Further it is observed that rule 9 of the Andhra Pradesh Revised Pension Rules, 1980 confers the Government the right to with hold or withdraw Pension, which reads as follows:

1. The Government reserves to themselves the right of withholding a pension or gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specific period and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused, to the Government and to the local authority if, in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence during the period of his /her service, including service rendered upon reemployment after retirement, the Government is entitled to withhold or withdraw the pension. As such, Rule 9(1) of the A.P. Revised Pension Rules, 1980 enables the Government to withhold the pension either in whole or part, permanently when the individual was found guilty for any grave offence in judicial proceedings.

11. Government, after careful examination of the matter, hereby decided to withhold the pension, gratuity, in full to the legal heirs of late Sri Shaik Mastan Shaeb, former Record Assistant, O/o DEE, Kurnool, who was dismissed from service, as none of the relatives of the deceased has approached the Court within 30 days within the term of the explanation to the proviso for leave to continue the appeal and also decided to release the other eligible benefits to the legal heirs of Sri Shaik Mastan Shaeb, former Record Assistant in the matter.

12. The Director of Employment and Training, Andhra Pradesh, Vijayawada is requested to take further action in the matter accordingly.

13. This order issues with the concurrence of Finance Department vide their U.O.No. FIN01-HR0MISC/129/2023-HR-III (Computer No:2269078).

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.SURESH KUMAR
PRINCIPAL SECREATRY TO GOVERNMENT (FAC)

To
The Director of Employment and Training, A.P., Vijayawada.
Smt. Fathima Bee, Wife of Late S. Mastan Saheb, former Record Assistant, DEE, Kurnool (through the Director of Employment and Training, A.P., Vijayawada).

Copy to
The Secretary to Vigilance Commissioner, A.P Vigilance Commission.
The SD&T(OP) Dept., AP Secretariat.
Sf/Sc. (Computer.No.1982885)

//FORWARDED::BY ORDER//

SECTION OFFICER

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

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